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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,742	09/12/2003	Ratan K. Chaudhuri	EMI-61	4932
23599	7590	07/14/2006	EXAMINER	
MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201			FLOOD, MICHELE C	
			ART UNIT	PAPER NUMBER
			1655	

DATE MAILED: 07/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/660,742

Applicant(s)

CHAUDHURI ET AL.

Examiner

Michele Flood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) 1-4 and 19-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 5-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/27/2006</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION***Election/Restrictions***

Applicant's election with traverse of Group III, Claims 5-18, in the reply filed on April 27, 2006 is acknowledged. The traversal is on the grounds that the Examiner has divided the claims into no less than ten groups and that it would be only a minor burden on the part of the Examiner to examine all of the claims at issue. This is not found persuasive for the reasons set forth clearly in the previous Office action. For instance, Inventions I-III are unrelated; and, the three different groups are directed to three different inventions comprising different process steps and different experimental parameters in the making of three different end products. Furthermore, Inventions I-III and IV-X are related as process of making and product made, wherein the product as claimed can be made by another and materially different process as evidenced by the claims themselves.

The several inventions above are independent and distinct, each from the other. The search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further a reference which would anticipate the invention of one group would not necessarily anticipate or even make obvious another group. Finally, the consideration for patentability is different in each case. Thus, it would be an undue burden to examine all of the above inventions in one application.

The requirement is still deemed proper and is therefore made FINAL.

Claims 5-18 are under examination.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The metes and bounds of Claim 5, as drafted in its entirety, are rendered particularly vague and indefinite by the phrase "and B) separating the insoluble components from the dissolved components to obtain an enriched aqueous extract of *Emblica officinalis*" because it is unclear as to what it is contained therein the instantly claimed "enriched aqueous extract of *Emblica officinalis*". For instance, while the claim language recites separating insoluble components from dissolved components, as drafted, it is not clear whether the aqueous plant extract is enriched in water-insoluble components or dissolved components. The lack of clarity renders the claim very ambiguous.

Claim 5 recites the limitation "the insoluble components" in line 6. There is a lack of clear antecedent basis for this limitation in the claim. Applicant may overcome the rejection by replacing "insoluble" with water-insoluble.

The term "substantially" in Claim 13 is a relative term which renders the claim indefinite. The term "substantially" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Claim 17 recites the limitation "said solution of aqueous suspension of *Emblica officinalis*" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

All other cited claims depend directly or indirectly from rejected claims and are, therefore, also, rejected under U.S.C. 112, second paragraph for the reasons set forth above.

Claim Objections

Claim 17 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. In the instant case, Claim 17 fails to further the limit subject matter of Claim 14 because the subject matter of Claim is directed to a process step of "further drying the separated enriched aqueous extract of *Emblica officinalis*, whereas the subject matter of Claim 17 appears to be drawn a process step of comprising (an unspecified) solution of *Emblica officinalis* under claim-designated conditions to inhibit the formation of claim-designated tannin materials.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 5-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Ranjan et al. (U).

Applicant claims a process comprising enriching an extract of *Emblica officinalis* comprising the steps of: A) providing an aqueous suspension of *Emblica officinalis*, the aqueous suspension containing dissolved components of *Emblica officinalis* and water-insoluble components comprising black specks and/or oligomeric and polymeric tannins; and B) separating the insoluble components from the dissolved components to obtain an enriched aqueous extract of *Emblica officinalis*.

Ranjan teaches a process comprising enriching an extract of *Emblica officinalis* comprising extracting finely ground (powdered) amla water to provide an aqueous suspension of *Emblica officinalis*, filtering the extract to obtain an extract; extracting the residue with water, which was similarly filtered; combining the filtrates, centrifuging the filtrates, and making the supernatant standard volume in water. Ranjan teaches that the prepared the extract contained soluble tannin, non-tannin and polyphenolic materials in the claim-designated amounts. See Table 1 on page 102.

The reference anticipates the claimed subject matter.

Claims 5, 8-10, 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Ghosal (A2, US 6,124,2368).

Applicant's claimed invention was set forth above.

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Ghosal teaches a process comprising enriching an extract of *Emblica officinalis* comprising the steps of: A) providing an aqueous suspension of *Emblica officinalis*, the aqueous suspension containing dissolved components of *Emblica officinalis* and water-insoluble components comprising black specks and/or oligomeric and polymeric tannins; and B) separating the insoluble components from the dissolved components to obtain an enriched aqueous extract of *Emblica officinalis* by filtration, and drying the separated enriched aqueous extract by spray-drying.

The reference anticipates the claimed subject matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MICHELE FLOOD
PRIMARY EXAMINER

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Primary Examiner
Art Unit 1655

MCF
July 10, 2006